

**FEDERAL ELECTION COMMISSION**  
**999 E Street, N.W.**  
**Washington, D.C. 20463**

**FIRST GENERAL COUNSEL'S REPORT**

Pre-MUR: 475

DATE SUBMISSION RECEIVED: August 15, 2008

DATE ACTIVATED: September 15, 2008

EXPIRATION OF STATUTE OF  
 LIMITATIONS: August 7, 2011

SOURCE: *Sua Sponte* Submission

RESPONDENT: Mark Leggio

RELEVANT STATUTES: 2 U.S.C. § 441f  
 2 U.S.C. § 441a(a)(1)(A)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED:

**I. INTRODUCTION**

Mark Leggio, the president and/or co-owner of Mark Christopher Chevrolet, Inc. (hereafter, "Mark Christopher") and two other family-owned auto dealerships in California, filed a *sua sponte* submission disclosing that he reimbursed \$16,000 in federal contributions made by his employees, a former employee, and their relatives in the 2000 and 2006 election cycles. Only the four 2006 reimbursed contributions, totaling \$8,000, fall within the statute of limitations. Mr. Leggio apparently used personal funds to reimburse these contributions, which were made to J.D. Hayworth for Congress ("the Hayworth Committee") and the Mary Bono Mack Committee ("the Bono Mack Committee").

Based on the available information, we recommend that the Commission find reason to believe that Mark Leggio violated 2 U.S.C. § 441f by making contributions in the names

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1 of others and 2 U.S.C. § 441a(a)(1)(A) because those reimbursed contributions, when  
2 aggregated with his own contributions to the same committees, caused him to exceed the  
3 applicable individual contribution limit.

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6 In addition,  
7 for the reasons discussed below, we are making no recommendations with respect to the  
8 conduits, Mr. Leggio's employees and cousins, Nick Cacucciolo, Jr. and his father, Nicola  
9 Cacucciolo, Sr. Finally, we make no recommendations as to the recipient committees.

10 **II. FACTUAL SUMMARY**

11 **A. Background**

12  
13 Mr. Leggio has been a major contributor to, and fundraiser for, a number of  
14 political committees over the years, mostly on the state and local level. *See* Leggio  
15 Submission at 1. Sometime in 2007, Mr. Leggio approached legal counsel to review his  
16 political contribution history after learning that a local district attorney's office was looking  
17 into contributions made by him, his employees and relatives to local and state candidates  
18 and committees. Counsel and a political compliance specialist conducted a comprehensive  
19 review of state and local political contributions made by Leggio, his companies and  
20 employees. *Id.* In September 2007, Mr. Leggio, through counsel, self-reported to the  
21 California Fair Political Practices Commission ("FPPC") contributions to state and local  
22 candidates that he and his companies made in the names of others. *Id.* at 2. On  
23 December 11, 2008, the FPPC approved a civil settlement agreement with Mr. Leggio and  
24 his three companies involving 23 counts of money laundering (contributions made in the

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names of others) totaling \$66,400, 6 counts of making excessive contributions and 5 counts of filing inaccurate reports. The reporting and excessive contribution violations stemmed from the money laundering scheme. The agreement covers reimbursements Mr. Leggio made to employees, former employees and their relatives, including the Cacucciolos, for contributions to eleven state and local candidate and party committees. The \$150,000 administrative fine provided for in the agreement has been paid.

On June 11, 2008, the California Attorney General's office working with the local district attorney, indicted Mr. Leggio, his cousins, Nick Cacucciolo Jr. and Nicola Cacucciolo Sr., and James Doremiah, a friend and former employee, on 11 felony counts of perjury, filing false statements, and conspiracy and 26 misdemeanor counts for violating state contribution limits and reporting laws, all involving state contributions that Mr. Leggio reimbursed. Mr. Leggio and the others indicted have pled not guilty, and the state criminal charges are pending.

In the course of reviewing Mr. Leggio's state-level contributions, counsel found that Leggio reimbursed the Cacucciolos and their spouses and a former employee and his relative, for eleven contributions made to three federal candidates in the 2000 and 2006 election cycles, totaling \$16,000. See Leggio Submission at 6. Mr. Leggio's counsel initially contacted the Office of General Counsel the week of August 4, 2008 to discuss a *sua sponte* submission, and on August 15, 2008 counsel met with us and simultaneously filed Mr. Leggio's *sua sponte* submission. The submission was filed more than six weeks after a newspaper account revealed that unnamed investigators had contacted Mary Bono Mack's congressional staff inquiring about contributions made to her campaign by Leggio and those named in the state indictment. See Keith Marenny, *Bono Mack Received Some of*

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1 *Questionable Donations*, The Desert Sun, June 19, 2008 at 3B; *see also* Richard K. Atley  
2 and Ben Goad, *Donor Deposits Draw Attention*, The Press Enterprise, July 3, 2008 at A01.

3 Following his submission, Mr. Leggio provided us with CD-ROMs containing  
4 documents that state investigators obtained from Mr. Leggio's businesses, banks and other  
5 entities pursuant to executed search warrants. Mr. Leggio also made himself available to us  
6 for a phone interview and, through counsel, has provided additional information.<sup>1</sup>

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13 **B. 2006 Contributions to Mary Bono Mack**

14 Mr. Leggio admitted that he requested Nick Cacucciolo, Jr. and Nicola  
15 Cacucciolo, Sr. to each make a contribution of \$2,000 to the Bono Mack Committee in  
16 early August 2006, which he personally reimbursed. Leggio Submission at 3-4. The  
17 Cacucciolos have been employed by Mr. Leggio's companies for more than 16 and 22  
18 years, respectively. At the time of the 2006 contributions, Nick Jr. was General Manager  
19 for Mark Christopher and another Leggio Company, Mountain View Chevrolet. Nick, Sr.  
20 was fleet manager for Mountain View. *Id.* 3-4.

21 Mr. Leggio told us in an interview that he agreed to host a fundraiser for Rep. Mary  
22 Bono Mack at his residence at the request of a friend, California state senator Bob Dutton.

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<sup>1</sup> We also obtained a CD-ROM containing the state grand jury transcript and exhibits that were made public.

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1 According to Mr. Leggio, his role in the fundraiser consisted of providing the use of his  
2 home and supplying food and beverages. Leggio stated that since Bono Mack was  
3 expected to attend more than one fundraiser that evening, the fundraiser was a "low-key"  
4 event held in the early evening consisting of light fare such as appetizers, soft drinks, and  
5 liquor from Mr. Leggio's personal stock. The Bono Mack Committee handled the rest of  
6 the arrangements, including sending invitations, staffing a sign-in table at the event, and  
7 collecting contributions. According to Leggio, about 20-30 people attended.

8 Mr. Leggio stated that he was not personally interested in raising money for Rep.  
9 Bono Mack, but because she was viewed as a celebrity of sorts, he personally invited about  
10 five local politicians and his cousins, the Cacucciolos, to the event. He told the Cacucciolos  
11 that he would reimburse them for the contributions they needed to make to attend the event.  
12 Documents contained on the CDs provided by Leggio indicate the fundraiser was held on  
13 August 3, 2006 and cost \$2,000 per couple to attend. The Cacucciolos each wrote a \$2,000  
14 contribution check to attend the fundraiser and Mr. Leggio personally reimbursed them.  
15 Leggio Submission at 3-4. Mr. Leggio maintained that he reimbursed the Cacucciolos in  
16 cash using personal funds. He stated that he routinely keeps a large amount of cash in a  
17 safe at his residence and used those funds.

18 Neither Mr. Leggio nor his wife made monetary contributions to the Bono Mack  
19 Committee. Rather, Mr. and Mrs. Leggio made in-kind contributions for the amount spent  
20 in excess of \$2,000 for the food and drinks they provided in hosting the fundraiser at their  
21 residence. See 2 U.S.C. § 431(8)(B)(iii)(the use of real property and the cost of invitations,  
22 food, and beverages provided by an individual to a political committee in rendering  
23 voluntary personal services for a candidate-related activity is not a contribution to the

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1 extent their aggregate value does not exceed \$1,000). Documents show, and Leggio has  
2 recently confirmed, that the event featured more extensive fare than Leggio recalled in his  
3 interview and cost the Leggios \$5,700. Thus, it appears that Mr. and Mrs. Leggio each  
4 made an in-kind contribution of about \$1,850 ( $\$5,700 - \$2,000 = \$3,700$ ;  $\$3,700 \div 2 =$   
5  $\$1,850$ ) to the Bono Mack Committee in the form of food and drinks provided for the  
6 fundraiser. According to counsel, the Leggios did not advise the Bono Mack Committee of  
7 these in-kind contributions.

8 C. 2006 Contributions to J.D. Hayworth

9 Mr. Leggio also admitted that he asked Nick Jr. and Nick Sr. to each make a  
10 contribution of \$2,000 to the Hayworth Committee on or around September 19, 2006,  
11 which he personally reimbursed. Leggio Submission at 3-4.

12 According to Mr. Leggio, these contributions were made in connection with a  
13 fundraiser held in his home for then-Arizona Representative J.D. Hayworth sometime in  
14 August 2006. Leggio again personally invited a few local politicians and the Cacucciolos.  
15 According to Leggio, the set-up was similar to the Bono Mack event: it was held in  
16 Leggio's home in the early evening with Hayworth's campaign staff in attendance, the  
17 Leggios provided appetizers and beverages, including liquor from their personal stock, and  
18 about 20-30 people attended.

19 This time, Mr. and Mrs. Leggio had both contributed up to the maximum limit of  
20 \$2,100 per election to the Hayworth committee before the fundraiser. In his interview,  
21 Leggio estimated that the food and beverages they provided cost no more than \$300. We  
22 found no documents concerning this fundraiser on the CDs provided, and Leggio has  
23 represented to us that he has none.

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As with the Bono Mack fundraiser, Mr. Leggio told the Cacucciolo's he would reimburse them for their contributions so they could attend the fundraiser. Nick Jr. and Nick Sr. each wrote a check for \$2,000 that Leggio reimbursed. Leggio Submission at 3. Again, Mr. Leggio maintains the reimbursements were in cash using his personal funds.

### III. LEGAL ANALYSIS

#### A. Liability of Mr. Leggio and the Cacucciolo's

Mr. Leggio admitted that he reimbursed Nick Cacucciolo, Jr. and Nicola Cacucciolo, Sr. for \$2,000 in contributions each made to the Bono Mack and Hayworth Committees in 2006. In all cases, the recipient committees disclosed the contributions as general election contributions in their FEC reports. The Act provides that no person shall make a contribution in the name of another person. 2 U.S.C. § 441f. Further, during the 2006 election cycle, the Act limited the amount a person could contribute to any candidate for Federal office and his or her authorized political committees to \$2,100 per election. 2 U.S.C. § 441a(a)(1)(A).

Mark Leggio violated 2 U.S.C. § 441f by making contributions in the names of Nick and Nicola Cacucciolo. Because Mr. Leggio appears to have made an in-kind contribution of about \$1,850 to the Bono Mack Committee, his reimbursement of the Cacucciolo's contributions to the committee resulted in an excessive contribution in the amount of \$3,750 ( $\$4,000 + \$1,850 = \$5,850$ ;  $\$5,850 - \$2,100 = \$3,750$ ) in violation of 2 U.S.C. § 441a(a)(1)(A). Similarly, because Mr. Leggio had already contributed the maximum statutory amount to the Hayworth Committee for both the primary and general elections, his reimbursement of the Cacucciolo's contributions to that committee resulted in an excessive contribution of \$4,000. This amount excludes Mr. Leggio's share of the cost of food and

1 beverages provided at the Hayworth fundraiser since it appears that amount was less than  
2 the \$1,000 exemption permitted by 2 U.S.C. § 431(8)(B)(iii).

3 \_\_\_\_\_ | Mr. Leggio  
4 acknowledged in his interview that he was aware of the specific federal contribution limits  
5 for individuals. Despite his knowledge of the contribution limits, Mr. Leggio personally  
6 reimbursed the Cacucciolo's for contributions they made at his request to the Hayworth and  
7 Bono Mack Committees even though he had contributed the maximum allowable  
8 contributions to the Hayworth Committee for the primary and general elections and close to  
9 the statutory maximum to the Bono Mack Committee for the general election. \_\_\_\_\_

10 \_\_\_\_\_ |  
11 \_\_\_\_\_ | Mr. Leggio's explanation  
12 for reimbursing his cousins in cash was that he keeps a large amount of cash \_\_\_\_\_  
13 \_\_\_\_\_ and often uses it to pay for expenses.

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19 \_\_\_\_\_ | The complexity of any potential Commission investigation would be  
20 amplified by the concurrent related \_\_\_\_\_ state criminal investigations. The  
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1 Commission has successfully investigated matters while there were parallel criminal  
2 investigations. *See e.g.*, MUR 5225 (Hillary Clinton for U.S. Senate). However, doing so  
3 is complicated and often greatly extends the length of the investigation since there are often  
4 legal and practical difficulties in obtaining discovery, and criminal authorities often ask us  
5 to delay later stages in our process. This would be particularly true in the present matter,  
6 where potentially we would have to coordinate with the offices of \_\_\_\_\_  
7 \_\_\_\_\_ California Attorney General. Given these considerations, the relatively moderate  
8 amounts in violation, and Mr. Leggio's cooperation and *sua sponte* submission, we  
9 recommend that the Commission proceed directly \_\_\_\_\_ with  
10 Mr. Leggio.<sup>3</sup> \_\_\_\_\_

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16 For many of the same reasons, we make no recommendations as to the conduits,  
17 Nick and Nicola Cacucciolo. According to Mr. Leggio's counsel, when he spoke to the  
18 Cacucciolos before the state indictment, they did not recall receiving reimbursements for  
19 the 2006 contributions. In addition, unlike conduits that have been pursued in other cases,

<sup>3</sup> This matter differs from MUR 5927 (Solomon) where our office recommended an investigation into whether Solomon, a former corporate officer \_\_\_\_\_ violated 2 U.S.C. § 441f by reimbursing \$3,000 in contributions made by employees and another corporate official. In that matter, Solomon's former company, not Solomon, filed a *sua sponte* submission revealing the reimbursements, and there were no parallel proceedings by other agencies or authorities. The Commission found reason to believe that Solomon violated Section 441f but instead approved a pre-probable cause conciliation agreement \_\_\_\_\_

\_\_\_\_\_ for the  
Section 441f reimbursement and the resulting violation of the contribution limit at 2 U.S.C. § 441a(a)(1)(A).

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1 the Cacucciolos were not public officials or "super conduits" who involved others in the  
2 reimbursement scheme. *See e.g.*, MUR 5871 (Noe). They played no role in hosting the  
3 fundraisers and we have no information indicating that they signed donor cards attesting  
4 that they made the contributions with their personal funds. \_\_\_\_\_

5 \_\_\_\_\_ Finally, the Cacucciolos were not corporate officers who consented to the use of  
6 corporate funds to reimburse themselves for contributions made in their names; in fact, Mr.  
7 Leggio reimbursed the contributions using his own personal funds. *See e.g.*, MUR 5398  
8 (Life Care Holdings).

9 **B. Liability of the Recipient Committees**

10 The *sua sponte* submission states that Mr. Leggio did not discuss any  
11 reimbursements with the recipient candidates or their political committees and that no  
12 candidate or committee was aware of the reimbursements. Leggio Submission at 3. In  
13 addition, the Hayworth Committee was terminated as of March 8, 2008, and the Bono  
14 Mack Committee's 2008 July Quarterly Report shows that it donated \$4,000 to charity  
15 following the state indictment and a day after a news report in which a representative of  
16 Bono Mack stated that the Committee would donate to charity an amount equal to the  
17 Cacucciolos' \$4,000 in contributions. *See Mateny, Bono Mack Received Some of*  
18 *Questionable Donations, supra.*

19 With respect to the unreported in-kind contribution of food and beverages to the  
20 Bono Mack fundraiser, it is possible that the Bono Mack Committee, though aware that  
21 food and drink were being furnished, reasonably believed that the associated expenses did  
22 not exceed the \$2,000 exemption available to the Leggios. Further, while the food and  
23 beverages provided by the Leggios at the Hayworth fundraiser may have cost more than the

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1 \$300 estimated by Mr. Leggio, the Hayworth Committee, like the Bono Mack Committee  
2 may have reasonably believed the expenses did not exceed the \$2,000 exemption.

3 Based on the *sua sponte* statements about the recipient committee's lack of  
4 knowledge, the termination of the Hayworth Committee, the remedial action taken by the  
5 Bono Mack Committee with respect to the reimbursed contributions, the relatively low  
6 amounts at issue with respect to the provision of food and beverages, and the fact that we  
7 are not recommending an investigation as to Mr. Leggio, we make no recommendations  
8 that the Bono Mack or Hayworth Committees violated the Act. When the Commission  
9 closes the file in this matter, we plan to send a letter to the Bono Mack Committee  
10 reminding them of the disclosure requirements and contribution limitations applicable to  
11 food and beverages provided by a host at fundraising events held at the host's personal  
12 residence.

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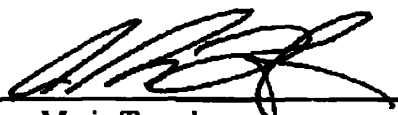
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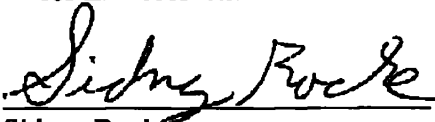
V. **RECOMMENDATIONS**


1. Open a MUR.
2. Find reason to believe that Mark Leggio violated 2 U.S.C. §§ 441f and 441a(a)(1)(A).
3. \_\_\_\_\_
4. Approve the attached Factual and Legal Analysis.
5. \_\_\_\_\_

Thomasenia P. Duncan  
General Counsel

Date: 3/18/09

BY:   
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